

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>KEITH A. JACKSON, SR.</b>	:	<b>CIVIL ACTION</b>
	:	
<b>v.</b>	:	
	:	
<b>MICHAEL J. ASTRUE,</b>	:	<b>NO. 09-3506</b>

**ORDER**

**AND NOW**, this 26<sup>th</sup> day of February, 2010, upon consideration of Plaintiff's request for review, Defendant's response, and after careful review of the Report and Recommendation of United States Magistrate Judge Jacob P. Hart and the objections thereto, it is hereby **ORDERED** that:

1. Plaintiff's Motion for Summary Judgment (Doc. No. 7), is **DENIED**;<sup>1</sup>
2. The Report and Recommendation is **APPROVED** and **ADOPTED**;
3. Plaintiff's objections are **OVERRULED**; and
4. Judgment is entered in favor of Defendant. The Clerk of Court is directed to mark this case closed.

**BY THE COURT:**

/s/ **Mitchell S. Goldberg**

MITCHELL S. GOLDBERG, J.

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<sup>1</sup> In further support of the Judge Hart's Report and Recommendation, we note that the inability to ambulate effectively on a sustained basis is applicable to Social Security listing 1.04A. See Meredith v. Barnhart, 2004 WL 2367816, at \*2 (E.D. Pa. Oct. 19, 2004) (rejecting plaintiff's argument that listing 1.04A does not require a finding of functional limitation and stating that under Section 1.00B, "'regardless of the cause(s) of the musculoskeletal impairment,' one must also have functional limitations resulting from the disorder" and that "these functional limitations include: 'the inability to ambulate effectively on a sustained basis for any reason'"); Garrett v. Commissioner of Social Sec., 274 Fed.Appx. 159, 163 (3d Cir. 2008) (holding that plaintiff's impairments did not meet the criteria in listing 1.04 where the evidence showed inter alia that plaintiff could ambulate effectively and citing 20 C.F.R. Pt. 404, Subpt. P, App. 1, § 1.00B(2)(b)(2) which "requir[es] proof of [the] inability to ambulate effectively and the inability to perform fine and gross manipulation to meet or equal any relevant impairment under Listing 1.00").